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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,747	01/22/2002	Kevin R. Kretsch	564.002US1	3570

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MINNEAPOLIS, MN 55402

EXAMINER

TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/054,747

Applicant(s)

KRETSCH, KEVIN R.

Examiner

Alicia M Torres

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24, 32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-20, 32 and 33 is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 21 and 23 is/are rejected.
- 7) ☒ Claim(s) 4-6, 22 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 7, 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Beardall.

3. In regards to claims 1-3 and 7, Beardall discloses a weed control system for a body of water, the system comprising:

A weed contacting member (e) suspendable within the body of water proximate a bed of weeds; and

A drive member (hand or horsepower, see column 3, lines 53-55) for moving the weed contacting member (e) in a repeating, circular arc pattern over the bed of weeds, the weed contacting member (e) freely hanging down from a support member (a) located at a surface of the body of water such that the weed contacting member (e) repeatedly brushes against any weeds in the bed of weeds, wherein the weed contacting member (e) includes an elongate member (e2) extending in a parallel direction relative to a length of the support member (a, this can be seen in Figure 3, the elongate members (e2) of contacting member (e) are disposed at an angle and therefore extend in a parallel direction to the length of the support member), as per claim 1; and

Art Unit: 3671

Wherein the weed contacting member (e) is flexibly attached to the support member (a) which is located approximately on or above a surface of the body of water, as per claim 2; and

Wherein the weed contacting member (e) includes a cross-bar having a plurality of tines (at e2) extending from a body of the cross-bar, as per claim 3; and

Wherein the support member (a) appears to be at least six feet long and the weed contacting member (e) is disposed along at least a portion of the length of the support member (a), as per claim 7.

4. In regards to claims 21 and 23, Beardall discloses a weed control system for a body of water, the system comprising:

An elongated support member (a) positioned parallel to a surface of a body of water and positionable at or above the surface, the elongated support member (a) having a first end rotatably coupled to a stationary unit (b) proximate the body of water;

An elongate weed contacting member (e) suspended from the support member (a) and located beneath the surface, the elongate weed contacting member (e) extending parallel relative to a length of the support member (a); and

A reversible driver (hand or horsepower) coupled proximate a second end of the elongated support member (a) to drive the elongated support member (a) in a rotating manner repeatedly back and forth across the surface of a section of the body of water such that the weed contacting member (e) is repeatedly pulled back and forth beneath the surface of the section to repeatedly contact any weeds located in that section, as per claim 21; and

Art Unit: 3671

Wherein the weed contacting member (e) includes a cross-bar having a plurality of tines (at e2) extending from a body of the cross-bar, as per claim 22.

***Allowable Subject Matter***

5. Claims 4-6, 22 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

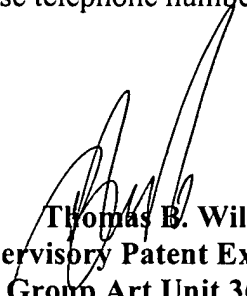
Claims 8-20, 32 and 33 are allowed.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.

  
**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
February 8, 2005